

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

RICHARD BENOIT, )  
                        )  
Petitioner/Defendant, )  
                        )  
vs.                     )      **Case No. CIV-17-49-JHP**  
                        )  
**UNITED STATES OF AMERICA,** )      **CR-04-24-JHP**  
                        )  
Respondent/Plaintiff. )

**OPINION AND ORDER**

This matter comes before the Court on the filing of a letter received by Petitioner which this Court construed as a Motion to Alter or Amend Judgment pursuant to Rule 59(e). Petitioner continues to assert he is entitled to relief pursuant to *Johnson v. United States*, 135 S.Ct. 2551 (2015), and that this Court has erred in not reducing his sentence based upon said case. According to Petitioner, he sent several letters to the Court well before the statute of limitations ran and, therefore, the Court should have ruled on his motion to vacate and granted him relief. While the Court found the statute of limitations barred Petitioner's motion to vacate, the Court also found in a footnote that *Johnson* does not apply to Petitioner's sentencing because Petitioner was **not** sentenced under the Armed Career Criminal Act. *See*, Dkt. # 31, n. 1. Accordingly, this Court denies Petitioner's Motion to Alter or Amend Judgment.

It is so ordered on this 3rd day of March, 2017.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma